

Existing law allows the Louisiana Used Motor Vehicle and Parts Commission to deny an application for a license or revoke, suspend, or cancel a current license if an automotive dismantler and parts recycler or motor vehicle crusher does not have an established place of business or if he is not operating from the address shown on his license if this change has not been reported to the commission.

New law further allows the commission to deny application for, revoke, suspend, or cancel a license if an automotive dismantler and parts recycler or motor vehicle crusher employs unlicensed salesmen or other unlicensed persons in connection with the sales of used motor vehicle parts.

New law adds "limited liability company" to the list of entities that are regulated as manufacturers, distributors, dealers, etc.

New law changes the definitions of "fire truck" and "wrecker" to "used fire truck" and "used wrecker". It further provides for the regulation of the sale of used fire trucks, used wreckers, used ambulances, used conversion vehicles, and used buses. The commission will no longer regulate the sale of new fire trucks, wreckers, ambulances, conversion vehicles, and buses. It further provides for a definition of "broker".

New law prohibits unlicensed dealers from participating in trade shows where new and used motorcycles, new and used all-terrain vehicles, new and used motor homes, new and used travel trailers, and new and used recreational vehicles are displayed, auctioned, or sold.

New law provides that no person or entity, unless licensed by the commission as a used car dealer, shall engage in the business as a "broker", "purchasing company", "sales agent", or similar title procurement of prospective purchasers for used cars.

Prior law provided that when a motorcycle, all-terrain vehicle, trailer, motor home, recreational vehicle, travel trailer, or marine dealer ceased to sell a particular make of one of these items, the manufacturer repurchased all new and unused motorcycles, all-terrain vehicles, trailers, motor homes, recreational vehicles, travel trailers, or marine products after notice to the manufacturer by registered or certified mail return receipt requested within 30 days. The items repurchased had to be of the current or immediate prior model year. The parts on hand to be repurchased must not have been damaged or substantially altered to the prejudice of the manufacturer.

New law provides for the repurchase of the aforementioned items of both current and immediate prior model year. It also provides for the repurchase of undamaged parts on hand that are currently listed in the manufacturer's price book.

New law requires on and after January 1, 2001, every application for the issuance of a used motor vehicle dealer's license must be accompanied by evidence that the dealership's general manager or other personnel has attended a four-hour educational seminar or is registered to attend such seminar. It provides that the commission may approve any nonprofit corporation organized for the purpose of representing licensees of this commission to administer the seminar and any for-profit corporation to conduct the seminar. The commission shall approve fees and promulgate rules to implement the seminar program.

Prior law provided that every entity licensed as a dealer under this law must

deposit a continuing bond in the amount of \$10,000 with the commission.

New law retains prior law but changes the bonding requirements for motor home dealers to \$20,000 bonds.

Existing law allows the commission to deny an application for license or revoke or suspend a license after it has been granted to a used motor vehicle dealer who:

- (1) Does not have an established place of business.
- (2) Employs unlicensed salesmen or other unlicensed persons in connection with the sale of used vehicles.
- (3) Fails or refuses to furnish or keep in force liability insurance on any vehicle offered for sale and otherwise required.
- (4) Is not operating from the address shown on his license if this change has not been reported to the commission or is not restricting the display of motor vehicles for sale to the location indicated on his license.
- (5) Is found to be parking vehicles on any public roadway or right-of-way for the purpose of displaying them for sale.

New law further allows the commission to deny application for, revoke, or suspend licenses of a used motor vehicle dealer who:

- (1) Habitually fails to deliver a certificate of title to a consumer within the time limitations as provided by existing law.
- (2) Habitually fails to submit monthly sales reports to Motor Vehicle Audit by the 20th day of the following month.
- (3) Habitually issues temporary license plates in violation of existing law.

New law provides that the commission may deny, revoke, or suspend a license if a used car dealer who is a broker:

- (1) Holds himself out as a broker or engages in such activities without holding a used car dealer license and complying with the law.
- (2) Acts in the capacity of or engages in the business of a broker without a valid used car dealer license.
- (3) Fails to execute a written brokering agreement and provide a copy to both the consumer entering into the agreement and the selling dealer.
- (4) Accepts a purchase deposit that exceeds 5% of the selling price of the vehicle described in the brokering agreement.
- (5) Fails to refund any purchase money upon demand at any time prior to the consumer's signing of a vehicle purchase agreement.
- (6) Fails to cancel a brokering agreement and refund any money paid by a consumer when the final price of the vehicle exceeds the purchase price listed in the brokering agreement, when the vehicle delivered is not as described, and when the brokering agreement expires prior to the customer being presented with a purchase agreement that contains a price at or below the negotiated price.

- (7) Fails to disclose the dollar amount of the fee that the consumer is obligated to pay to the broker.
- (8) Fails to maintain for a minimum of three years a copy of the brokering agreement and other related documents.
- (9) Fails to advise the consumer, prior to accepting any money, that a full refund will be given if the vehicle ordered is not obtained for the consumer.

Existing law allows the commission to institute injunctive actions in courts in the name of the state on the relation of the commission to enforce the provisions of prior law. It further provides that any licensee or other person who violates or threatens to violate any provision of prior law or any rule or regulation pursuant to this law may be enjoined from continuing the violation or engaging in any business for which a license has been issued.

New law retains existing law and further allows the commission to notify persons who appear to be violating the provisions of existing or new law or any rule or order made pursuant to this law to appear and show cause why a cease and desist order should not be issued prohibiting the proscribed conduct. New law further allows interlocutory cease and desist orders to be granted if one or all of the following conditions exist:

- (1) An order is necessary to the performance of the duties of the commission or is otherwise necessary or convenient to maintaining the status quo between two or more adverse parties.
- (2) A party before the commission is entitled to relief, and all or part of the relief requires the restraint of some act prejudicial to the party.
- (3) A person is performing or is about to perform or is procuring or allowing the performance of an act relating to the subject of a contested case pending before the commission, and the act would tend to render the commission's order ineffectual.
- (4) Substantial injury to the rights of a person subject to the commission's jurisdiction is threatened.

New law provides that interlocutory cease and desist orders shall remain in effect until vacated or until incorporated into a final commission order. Permanent cease and desist orders may be issued without regard to the provisions of new law but only in accordance with the provisions of existing law pertaining to the issuance of final commission orders. Appeal of any interlocutory cease and desist order shall be made to the commission prior to seeking judicial review. Appeal of a permanent cease and desist order shall be conducted pursuant to the provisions of existing law pertaining to judicial review of final orders.

Effective on August 15, 1999.

(Amends R.S. 32:771(3), (4), (5), (6), (7), (12), (15), (16)(a), and (18), 772(F)(8), 773(A)(5) and (7)(a), 773.1(A)(1) and (2)(a), (b), (c), (d), (f), (g), (h), (i), (j), and (l)(intro. para.) and (B), 773.2(A), (B), and (C), 774(A), (B)(3), (D)(2), (E), (G)(1), and (J)(1), (3), and (4), 775(A)(3) and (F)(2) and (3), 776(A)(2) and (C)(1)(a), 779, and 780(A) and (D); Adds R.S. 32:760(A)(7)(c), 771(1.1), 772(F)(9), 773(C), 775(A)(7)(f), (g), (h), and (i), and 777(D))